

NOTICE IS HEREBY GIVEN that the Director of the Office of Real Estate Appraisers proposes to amend California Code of Regulations, Title 10, section 3528 relative to the practice of real estate appraisal for purposes of clarity and to implement specific requirements of the Appraiser Qualifications Board of the Appraisal Foundation.

A public hearing for the collection of comments about this proposal has not been scheduled. However, any interested person or his or her duly authorized representative may present statements, arguments or conclusions in writing. In addition, a public hearing will be held if, no later than fifteen days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the Office of Real Estate Appraisers a request that a hearing be held.

Any written comments on the proposed regulations must be received no later than 5:00 p.m. on October 30, 2006, which is hereby designated as the close of the written comment period. Please submit written comments to:

Office of Real Estate Appraisers
1102 Q St., Suite 4100
Sacramento, CA 95814

CONTACT

Inquiries concerning the action described in this Notice may be directed to Anthony F. Majewski at (916) 440-7878 or to Greg Harding at (916) 440-7874.

AUTHORITY AND REFERENCE

Pursuant to the authority vested in the Office of Real Estate Appraisers by sections 11302, 11310, 11313, 11314, 11328, 11360, 11361, Business and Professions code, Section 87300, Government Code, and to implement, interpret or make specific Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, PL-101-73, (FIRREA), the director of OREA is proposing changes to California Code of Regulations, Title 10, Chapter 6.5, section 3528.

The US Congress enacted Title XI of FIRREA in 1989, mandating all appraisals performed for federally related real estate transactions as defined must be performed by state licensed or certified real estate appraisers. In response to the federal mandate, the California Legislature passed the Real Estate Appraisers' Licensing and Certification Law [Stats. 1990, c. 491 (AB 527), amended by Stats. 1990, c. 1062 (SB 910), Stats. 1991, c. 84 (SB 1028), Stats. 1991, c. 1091 (AB 1487), Stats. 1992, c. 95 (SB 1958), Stats. 1992, c. 767 (SB 492), Stats. 1993, c. 331 (SB 914), Stats. 1993, c. 343 (SB 173), Stats. 1993, c. 940 (AB 1723), Stats. 1993, c. 941 (AB 387), Stats. 1994, c. 837 (AB 2634), Stats. c. 439 (SB 1316), Stats. 1997, c. 790 (SB 1348), Stats. 1998, c. 366 (AB 2244), and Stats. 1999, c. 974 (AB 431)].

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, states may only issue real estate appraiser licenses to individuals who meet at least the minimum education, experience and examination qualifications established by the Appraiser Qualifications Board of the Appraisal Foundation. The Appraisal Subcommittee of the Federal Financial Institutions Examination Council ensures that state appraiser licensing and regulatory agencies implement the minimum qualifications. Under current California law, Business and Professions Code, section 11300 *et seq.*, OREA is charged with licensing real estate appraisers who meet at least the minimum qualifications and for enforcing ethical and professional standards.

Existing regulation in section 3528 requires all applicants for, and holders of any license authorized under these regulations to meet the minimum requirements set forth in Chapter 6.5 or those established by the Appraiser Qualifications Board, whichever are greater. From time to time, the Appraiser Qualifications Board revises the license qualification criteria to include additional education, experience an/or examination requirements.

In February 2004, the Appraiser Qualifications Board adopted new criteria that will become effective on January 1, 2008. Those new criteria establish additional qualifying education requirements, specify time limits for acquiring practical appraisal experience, and require the development and administration of a revised examination. In adopting the new criteria, the Appraisal Subcommittee provided some flexibility to state licensing agencies in how they may implement the criteria. States may adopt a “firm date” implementation approach or a “segmented” approach and they must implement the statutory or regulatory changes necessary to implement the revised criteria.

In states that adopt a firm date approach, individuals who file applications on or after January 1, 2008, must meet all of the increased education requirements and must take the new national licensing examination. Applicants in firm date states who file before January 1, 2008, must submit complete applications verifying that they have met all of the current licensing criteria and all requirements contained in state statute and regulation.

In states that adopt a segmented approach, the state licensing agencies determine when a component of the criteria was completed and then determine whether the applicant conformed to Appraiser Qualifications Board criteria in effect at the time that component was completed. Under the segmented approach, applicants may conform one component to one set of criteria and another component to a different set of criteria.

The Office of Real Estate Appraisers has adopted an approach that permits applicants to file applications prior to January 1, 2008, documenting the completion of one component (for example, the education component) under the criteria in effect at the time and to complete the remaining components on or after January 1, 2008, provided those components comply with the revised criteria.

The additional regulatory language to California Code of Regulations, Title 10, section 3528, will clarify the method the Office of Real Estate Appraisers will use to evaluate applications for appraiser licenses relative to the increased licensing criteria that will become effective on January 1, 2008. Specifically, the additional language will ensure that prospective applicants will be aware that if they file an application for licensure on or before December 31, 2007, and they have completed either the experience or the education requirement, or both, they will be deemed as having completed those requirements in conformance with currently existing licensing criteria. They will be able to complete any uncompleted licensing requirements on or after January 1, 2008, to become licensed. Absent this regulatory change, applicants who do not file a complete application by December 31, 2007, indicating compliance with all current licensing criteria, will be required to comply with all of the revised licensing requirements including the new education requirements.

The additional regulatory language will also ensure that the Appraisal Subcommittee is aware as soon as possible of the method the Office of Real Estate Appraisers has selected to implement the new licensing requirements.

FISCAL IMPACT

- Cost or Savings to Any State Agency: None
- Direct or indirect costs or savings in federal funding to the state: None
- Other nondiscretionary cost or savings imposed on local agencies: None
- Costs to any local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code: None

DETERMINATIONS

The Office of Real Estate Appraisers has made an initial determination that the adoption/amendment/repeal of this regulation:

- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with business in other states.
- Does not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not significantly affect: (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses, the expansion of business or the elimination of existing businesses currently doing business within the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Adoption of the revised Appraiser Qualifications Board criteria is a mandatory requirement placed on state appraiser licensing agencies in order for appraisals performed by state licensed appraisers to be acceptable in federally related real estate transactions. This amendment clarifies the method the Office of Real Estate Appraisers has determined is the most effective approach to implement the revised criteria. The Office of Real Estate Appraisers had determined that there is no adverse impact on representative persons or businesses. On the contrary, the selected method will ensure that prospective applicants do not incur an adverse impact of having to meet all of the revised criteria while having already met some of the current criteria.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OREA has prepared and has available for public review an Initial Statement of Reasons for the proposed changes to these regulations, the information upon which the proposed changes are based and the text of the proposed regulations, as changed. A copy of the Initial Statement of Reasons and a copy of the proposed regulation text are available upon request by writing to the Office of Real Estate Appraisers at the address noted above, which will also be the location of public records, including reports, documentation and other materials related to the proposed regulations. The information may also be accessed on the Office of Real Estate Appraisers website at www.orea.ca.gov

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation, which is changed or modified from the express terms of the proposed action, will be made available by the Office of Real Estate Appraisers at least 15 days prior to the date on which the Office of Real Estate Appraisers adopts, amends or repeals the resulting regulations.

ADDITIONAL STATEMENTS AND COMMENTS

Economic Impact

The Office of Real Estate Appraisers has determined that the proposed regulatory action will have no adverse economic impact on California businesses.

The proposed regulatory action will have no effect on expansion of businesses currently doing business in California.

EFFECT ON SMALL BUSINESS

The Office of Real Estate Appraisers has determined that the adoption of these regulations will have no effect on small businesses. The adoption of this regulation will neither restrict entry into the field of appraisal for prospective applicants nor proscribe current licensees from practicing their profession. The effect of the amendment is to ensure that applicants are aware of the method the Office of Real Estate Appraisers will use to implement new licensing criteria adopted by the Appraiser Qualifications Board.

CONSIDERATION OF ALTERNATIVES

OREA has determined that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Date

ANTHONY F. MAJEWSKI